

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ROBERT FIREBAUGH, et al.)	
)	
Plaintiffs,)	
)	
vs.)	No. 4:08-CV-1161 ERW
)	
3M COMPANY, as Successor by Merger)	
to Minnesota MINING and)	
MANUFACTURING COMPANY, and/or)	
Its Predecessors/Successors in Interest,)	
et al.)	
)	
Defendants.)	

DEFENDANT 3M COMPANY'S
SUPPLEMENTAL DISCLOSURE OF EXPERT TESTIMONY

Comes now Defendant, 3M Company ("3M"), f/k/a and s/h/a Minnesota Mining and Manufacturing Company¹, for its, "Supplemental Disclosure of Expert Testimony," pursuant to Federal Rule of Civil Procedure 26(a)(2) and the Second Amended Case Management Order, 3M provides this supplemental disclosure of expert testimony.

Subject to the reservations stated herein, and 3M's right to supplement and amend this list of expert witnesses, 3M discloses the following experts who may be called at the time of trial:

1. Alan R. Johnston, C.I.H..
President and Chief Executive Officer
DAMARCO Solutions, LLC
St. Anthony Main
219 Southeast Main Street
Suite 306
Minneapolis, MN 55414

¹ Effective April 8, 2002, this Defendant changed its legal name from Minnesota Mining and Manufacturing Company to 3M Company.

(612) 617-0999

2. Nicole Vars McCullough, Ph.D.
3M Company
3M Center
Bldg 235-2E-91
OH&ESD
St. Paul, MN 55144
(651) 575-8294
3. Philip D. Eitzman, Ph.D.
3M OH&ESD
3M Center
Building 235-2B-86
St. Paul, MN 55144
(651) 733-3483
4. Dennis J. Seal, Ph.D., P.E.
Seal Design and Engineering, Inc.
Human Factors and Product Safety
5423 Vanderbilt Avenue
Dallas, Texas 75206
(214) 823-9364
5. Michael Graham, M.D.
St. Louis University Medical Center
Department of Forensic Pathology
3556 Caroline St.
St. Louis, MO 63104
(314) 577-8298
6. Neil Ettinger, M.D.
Cardio-Pulmonary Associates
222 S. Woods Mill Road
Suite 310 North
Chesterfield, MO 63017
7. Alexander E. Denes, M.D., F.A.C.P.
Washington University in St. Louis
School of Medicine
Campus Box 8056
660 South Euclid Avenue
St. Louis, MO 63110
(314) 454-7333

8. Patrick Hessel, Ph.D.
EpiLung Consulting
#25, 26204 Township Road 512
Spruce Grove, Alberta T7Y 1C5
CANADA
(780) 987-4089

Alan R. Johnston, C.I.H.
President and Chief Executive Officer
DAMARCO Solutions, LLC
St. Anthony Main
219 Southeast Main Street
Suite 306
Minneapolis, MN 55414
(612) 617-0999

Mr. Johnston was previously disclosed in 3M's Disclosure of Expert Testimony served upon parties on April 6, 2010. 3M incorporates the subject matter described in Mr. Johnston's prior disclosure in this case into this Supplemental Disclosure of Expert Testimony.

Nicole Vars McCullough, Ph.D.
3M Company
3M Center
Bldg 235-2E-91
OH&ESD
St. Paul, MN 55144
(651) 575-8294

Dr. McCullough was previously disclosed in 3M's Disclosure of Expert Testimony served upon parties on April 6, 2010. 3M incorporates the subject matter described in Dr. McCullough's prior disclosure in this case into this Supplemental Disclosure of Expert Testimony.

Philip D. Eitzman, Ph.D.
3M OH&ESD
3M Center
Building 235-2B-86
St. Paul, MN 55144

(651) 733-3483

Dr. Eitzman was previously disclosed in 3M's Disclosure of Expert Testimony served upon parties on April 6, 2010. 3M incorporates the subject matter described in Dr. Eitzman's prior disclosure in this case into this Supplemental Disclosure of Expert Testimony.

**Dennis J. Seal, Ph.D., P.E.
Seal Design and Engineering, Inc.
Human Factors and Product Safety
5423 Vanderbilt Avenue
Dallas, Texas 75206
(214) 823-9364**

Dr. Seal was previously disclosed in 3M's Disclosure of Expert Testimony served upon parties on April 6, 2010. 3M incorporates the subject matter described in Dr. Seal's prior disclosure in this case into this Supplemental Disclosure of Expert Testimony.

**Michael A. Graham, M.D.
Office of the Medical Examiner City of St. Louis
1300 Clark Street
St. Louis, MO 63104
(314) 522-6410**

**Michael Graham, M.D.
St. Louis University Medical Center
Department of Forensic Pathology
3556 Caroline St.
St. Louis, MO 63104
(314) 577-8298**

Dr. Graham was previously disclosed in 3M's Disclosure of Expert Testimony served upon parties on April 6, 2010. 3M incorporates the subject matter described in Dr. Graham's prior disclosure in this case into this Supplemental Disclosure of Expert Testimony.

**Neil Ettinger, M.D.
Cardio-Pulmonary Associates
222 S. Woods Mill Road
Suite 310 North
Chesterfield, MO 63017**

Dr. Ettinger was previously disclosed in 3M's Disclosure of Expert Testimony served upon parties on April 6, 2010. 3M incorporates the subject matter described in Dr. Ettinger's prior disclosure in this case into this Supplemental Disclosure of Expert Testimony.

Alexander E. Denes, M.D., F.A.C.P.
Washington University in St. Louis
School of Medicine
Campus Box 8056
660 South Euclid Avenue
St. Louis, MO 63110
(314) 454-7333

Dr. Denes is an oncologist. He received his Bachelor's degree from Washington University in 1969 and his medical degree from the University of Missouri in 1973. He had an internship and residency at John Hopkins School of Medicine. He worked as an Epidemiologist at the Center for Disease Control in Atlanta, Georgia from 1975 to 1977. Dr. Denes did a fellowship in Hematology-Oncology at Washington University School of Medicine from 1977 to 1979. He was certified by the American Board of Internal Medicine in 1976 and is licensed to practice in Missouri, Arizona, Colorado and Utah. He is an Associate Professor of Medicine at the Washington University School of Medicine.

Dr. Denes may testify regarding the alleged medical connection between plaintiff's medical condition and his alleged silica exposure, the treatment of and prognosis for plaintiff's medical condition, issues of alternative causation and life shortening conditions that are not related to the plaintiff's alleged silica exposure. Dr. Denes' testimony will be based on his training, education, and a review of the medical and scientific literature as well as his review of plaintiff's medical records including, but not limited to, radiological studies of the plaintiff's chest as well as pathology slides and related materials.

3M reserves the right to offer Dr. Denes' expert opinion testimony concerning any issue raised by other experts or any other party in this litigation, provided these opinions are within his fields of expertise.

**Patrick Hessel, Ph.D.
EpiLung Consulting
#25, 26204 Township Road 512
Spruce Grove, Alberta T7Y 1C5
CANADA
(780) 987-4089**

Dr. Hessel is an epidemiologist who may testify regarding epidemiological studies of silica-related diseases. He may testify regarding the nature and purpose of the Threshold Limit Value (TLVs) and Permissible Exposure Limits (PELs), the dates of adoption and their various changes. He may describe some of the relationships between exposure levels above and below TLVs and PELs in this country and worldwide and epidemiological evidence of the risk of disease at the time the TLVs and PELs were set. He may testify concerning the epidemiology of cancer, generally, including the relationship, if any, between cancer and exposure to respirable silica. Dr. Hessel may testify as to how the International Agency for Research on Cancer (IARC) functions. He also may testify as to his opinions as to the causes of plaintiff's alleged injuries, and, if applicable, the causes of death and the basis of such opinions.

Dr. Hessel's testimony may be based upon his review of the discovery responses, document productions and deposition testimony of plaintiff, the deposition testimony of current and former representatives, employees, and consultants of plaintiff's employer's taken in this and/or other litigation, OSHA, MSHA and Missouri Department of Labor citations, dust monitoring results and other documents produced by plaintiff's employers in this and/or other

litigation, photographs, and videotapes, if any, of the facilities where plaintiff worked, and medical and employment records pertaining to plaintiff in this litigation.

3M reserves the right to offer Dr. Hessel's expert opinion testimony concerning any issue raised by other experts or any other party in this litigation, provided these opinions are within his fields of expertise.

3M may also call as expert witnesses the health care providers that treated, examined, diagnosed, consulted with or otherwise assessed the plaintiff and plaintiff's medical condition, diagnosis, prognosis, causation, and/or treatment. The testimony of the physicians and health care providers, discussed below, will be on the basis of the information, facts and opinions within the medical records, diagnostic studies or other information previously disclosed in the medical records of each physician or health care provider. Such persons include, but are not limited to:

- a. Dr. Robert Bruce
4921 Parkview Place, #14E
St. Louis, MO 63110
(618) 877-8443
- b. Professional Health Services
83 South Eagle Road
Havertown, PA 19083
- c. Piedmont Family Clinic
Dr. Michael Toney
1 Hals Plaza
Piedmont, MO 63957
(573) 223-4800
- d. Barnes Jewish Hospital
One Barnes Hospital Plaza
St. Louis, MO 63110
(314) 747-3000

- e. Dr. Matthew J. Riffle
225 Physicians Park Drive, #400
Poplar Bluff, MO 63901
(573) 727-5500

In addition to the above, 3M may call as expert witnesses any and all physicians who have examined the plaintiff in this case or have reviewed medical records of the plaintiff in this case and who have been designated by any co-defendants as expert witnesses in this case.

3M may call any experts designated by any party in this case, even if the designating party is not a party in these cases at the time of trial. In the event a present or future party designates an expert but then is dismissed or fails to call any designated expert, 3M reserves the right to call any such expert as a witness.

3M reserves the right to call undesignated rebuttal expert witnesses.

3M reserves the right to withdraw the designation of any expert and to re-designate the same as a consulting expert, who cannot be called by opposing counsel.

3M reserves the right to supplement or amend this designation within the time limits imposed by the Court or any alterations of same by subsequent court order or agreement of the parties, or pursuant to the Federal Rules of Civil Procedure and/or the Federal Rules of Civil Evidence.

KUROWSKI, BAILEY & SHULTZ, LLC

By: /s/ Stephanie M. Galetti

John J. Kurowski, #62256
Stephanie M. Galetti, #555953
24 Bronze Pointe
Belleville (Swansea), IL 62226
(618) 277-5500
(618) 277-6334
Email: jkurowski@kbslf.com

By: /s/ Lawrence King

Lawrence R. King, Admitted Pro Hac
Larson King, LLP
2800 Wells Fargo Place
30 E. 7th Street
St. Paul, MN 55101
Phone: 651-312-6500
Email: lking@larsonking.com

Attorneys for Defendant 3M Company

PROOF OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document has been served upon all counsel of record via Eastern District of Missouri electronic filing this 28th day of May, 2010.

Mike Martin
Maloney Martin, L.L.P.
3401 Allen Parkway, Suite 100
Houston, TX 77019
E-mail: mbmartin@mmmlp.com
Attorneys for Plaintiff

Zane T. Cagle
PAGE CAGLE
1232 Washington Ave., Suite #220
St. Louis, MO 63103
E-mail: zane@pagecagle.com
Attorneys for Plaintiff

W. Jeffrey Muskopf
Michael J. Smith
Sarah J. Hugg
Patrick Foppe
Lashly & Baer, P.C.
714 Locust Street
St. Louis, MO 63101
Phone: 314-621-2939
E-mail: jmuskopf@lashlybaer.com
Attorneys for Defendant Mine Safety Appliances

/s/ Stephanie M. Galetti
ATTORNEYS FOR DEFENDANT
3M COMPANY